

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

IN RE NEW ENGLAND COMPOUNDING)
PHARMACY, INC. PRODUCTS LIABILITY)
LITIGATION)

)
) Dkt. No 1:13-md-2419 (RWZ)
THIS DOCUMENT RELATES TO:)
)
Suits Naming the Tennessee Clinic)
Defendants)

)

**TENNESSEE CLINIC DEFENDANTS'
MOTION TO REVISE (OR TO RECONSIDER)
ORDER GRANTING THE TRUSTEE A PROTECTIVE ORDER PRECLUDING THE
TENNESSEE CLINIC DEFENDANTS FROM DEPOSING NECC**

Defendants Saint Thomas Outpatient Neurosurgical Center, LLC; Howell Allen Clinic, a Professional Corporation; John Culclasure, MD; Debra Schamberg, RN, CNOR; Vaughan Allen, MD; Specialty Surgery Center, PLLC; Kenneth R. Lister, MD; Kenneth Lister, MD, PC; and Donald E. Jones, MD (collectively "Tennessee Clinic Defendants"), come now and respectfully request this Court reconsider and revise its July 31, 2015, Order¹ granting the *Motion of the Chapter 11 Trustee for a Protective Order pursuant to Fed. R. Civ. P. 26(c) and 45(c) Precluding the Tennessee Clinic Defendants from Conducting a Deposition of New England Compounding Pharmacy, Inc. pursuant to Fed. R. Civ. P. 30(b)(6) and Quashing related Deposition Subpoena*².

¹ The Order is at Dkt. 2123.

² The Trustee's motion is at Dkt. 1810.

The Court should reconsider and revise its ruling at Dkt. 2123 because (1) at the time it made its ruling, it did not have information regarding the fee requests to the estate, which give context to the Trustee's argument that the cost of preparing a corporate witness is an unreasonable financial burden on the estate; and (2) the Tennessee Clinic Defendants propose with the Motion a more limited notice on narrow issues that substantially decreases any purported burden on the estate and does not reasonably implicate Fifth Amendment concerns.

The grounds for the requested relief are further explained in the contemporaneously-filed *Memorandum of Law in Support of the Motion to Revise (or to Reconsider)*.

Respectfully submitted,

GIDEON, COOPER & ESSARY, PLC

/s/ Chris J. Tardio

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* Admitted pursuant to MDL Order No. 1.

** Admitted *pro hac vice*.

CERTIFICATE OF SERVICE

I hereby certify that this document filed through the CM/ECF system will be served electronically to the registered participants identified on the Notice of Electronic Filing and copies will be e-mailed or mailed via regular U.S. mail to those participants identified as unregistered this August 24, 2015.

/s/ Chris J. Tardio
Chris J. Tardio